APPENDIX

DEC 20 1973

In The

Supreme Court of the United States

October Term, 1973

No. 73-1713

Secretary of the Navy,

Appellant

—v.—

Mark Avrech

On Appeal From The United States Court of Appeals
For The District Of Columbia Circuit

Jurisdictional Statement Filed June 15, 1973
Probable Jurisdiction Noted October 9, 1973

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 72-1713

SECRETARY OF THE NAVY,

Appellant

—v.—

MARK AVRECH

ON APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

INDEX

	Page
Relevant docket entries	1
The charges and specifications against appellee	3
Order noting probable jurisdiction	6

RELEVANT DOCKET ENTRIES

DATE	PROCEEDINGS
	U.S. DISTRICT COURT
Dec. 16, 1970	Complaint, appearance filed
Mar. 8, 1971	Motion of plaintiffs for summary judgment; memorandum; statement; exhibits A & B; affidavit. filed
Apr. 22, 1971	Motion of defendant to dismiss or in the alternative, for summary judgment and opposition to plaintiff's motion for summary judgment; exhibit A; A-1; & B statement; P & A; in support of defendant's motion to dismiss or in the alternative, for summary judgment; c/m 4-22 71; M.C. appearance of Thomas A. Flannery, Joseph M. Hannon & Michael A. Katz. filed
Apr. 22, 1971	Objections of defendants to plaintiff's statement of facts in support of motion for summary judgment; c/m 4-22-71. filed
Apr. 22, 1971	Motion of defendant to strike c/m 4-22-71. filed
June 30, 1971	Reply of plaintiff to defendants memorandum of P&A in support of defendants motion to dismiss or in the alternative for summary judgment; c/m 6-30-71. filed
Aug. 6, 1971	Supplement to defendants memorandum of P&A in support of motion to dismiss and opposition to plaintiff's motion for summary judgment; exhibits (4); c/m 8-6-71. filed
Aug. 17, 1971	Order granting motion to strike affidavit of plaintiff in support of motion for summary judgment. (N)

RELEVANT DOCKET ENTRIES—Continued

DATE	PROCEEDINGS
Aug. 20, 1971	Motion of plaintiff for summary judgment argued and denied; Motion of defendant for summary judgment argued and granted. (Order to be presented)
Aug. 27, 1971	Order granting motion of defendant for summary judgment and denying motion of plaintiff for summary judgment. (N)
Sept. 1, 1971	Notice of appeal by plaintiff from order of August 27, 1971. filed
Oct. 21, 1971	Opinion and order denying motion of plaintiffs for summary judgment and granting motion of defendants for summary judgment. (N)
	U.S. COURT OF APPEALS
Mar. 20, 1973	Judgment reversing judgment of the District Court. (n)
Apr. 5, 1973	4-Appellee's motion for leave to file a petition for rehearing and suggestion for rehearing en banc, time having expired (m-4)
Apr. 19, 1973	4-Appellee's notice of appeal from the judgment of this Court entered March 20, 1973 reversing the judgment of the District Court (m-19)
June 20, 1973	1-Notice of filing in the U.S. Supreme Court (m-18)
Oct. 15, 1973	Certified copy of order of Supreme Court for the U.S. Court of Appeals that the statement of jurisdiction in this case having been submitted and considered by the court probable jurisdiction is noted

THE CHARGES AND SPECIFICATIONS AGAINST APPELLEE

* * * *

CHARGES

Charge I: Violation of the Uniform Code of Military Justice, Article 80

Specification: In that Private First Class Mark S. AVRECH, U. S. Marine Corps, Headquarters and Maintenance Squadron 16, Marine Aircraft Group 16, 1st Marine Aircraft Wing, Fleet Marine Force, Pacific, Fleet Post Office, San Francisco, California 96602, did, at Marble Mountain Air Facility, Danang, Republic of Vietnam, on or about 15 April 1969, with design to promote disloyalty and disaffection among the troops, attempt to publish to members of the Armed Forces of the United States the following statement, to wit: "The Truth", Volume 1 Number 1, dated April 30, 1969: "I've been in this country now for 40 days and I still don't know why I'm here. I've heard all the arguments about communist aggression and helping the poor defenseless people. I've also heard this three years ago. The entire Vietnamese Army will switch to a pacification role in 1967 and leave major fighting to the American troops. (Statements by South Vietnamese Foreign Minister, L.A. Times, Nov. 18, 1966.) It seems to me that the South Vietnamese people could do a little for the defense of their country. Why should we go out and fight their battles while they sit home and complain about communist aggression. What are we cannon fodder or human beings? If South Vietnam was willing to go it on their own back in 1964 what the hell is the matter with them now? The United States has no business over here. This is a conflict between two different politically minded groups. Not a direct attack on the United States. It's not worth killing American boys to have Vietnam have free elections. (Former Vice President Richard M. Nixon, L. A. Times, Dec. 31, 1967.) That was our present leader of this country and now he has the chance to do something about the situation and what happens? We

have peace talks with North Vietnam and the V. C. That's just find and dandy except how many men died in Vietnam the week they argued over the shape of the table? Why does this country think that it can play games with peoples lives and use them to fight their foolish wars I say foolish because how can you possibly win anything like a war by destroying human lives. Human lives that have no relations at all to the cause of the conflict. Do we dare express our feelings and opinions with the threat of court-martial perpetually hanging over our heads? Are your opinions worth risking a court-martial? We must strive for peace and if not peace then a complete U. S. withdrawal. We've been sitting ducks for too long." * * * * * * * "SAM", or words to that effect, which statement was disloyal to the United States.

ADDITIONAL Charge I: Violation of the Uniform Code of Military Justice, Article 134

Specification: In that Private First Class Mark S. AVRECH, U. S. Marine Corps, Headquarters and Maintenance Squadron 16, Marine Aircraft Group 16, 1st Marine Aircraft Wing, Fleet Marine Force, Pacific, Fleet Post Office, San Francisco, California 96602, did, at Marble Mountain Air Facility, Danang, Republic of Vietnam, on or about 15 April 1969, with design to promote disloyalty and disaffection among the troops, published to members of the Armed Forces of the United States the following statement, to wit: "The Truth", Volume 1 Number 1, dated April 30, 1969: "I've been in this country now for 40 days and I still don't know why I'm here. I've heard all the arguments about communist aggression and helping the poor defenseless people. I've also heard this three years ago. The entire Vietnamese Army will switch to a pacification role in 1967 and leave major fighting to the American troops. (Statement by South Vietnamese Foreign Minister, L. A. Times, Nov. 18, 1966.) It seems to me that the South Vietnamese people could do a little for the defense of their country. Why should we go out and fight their

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